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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------|
| 10/827,298   | 04/20/2004  | Peter D. Gonzales    | 24294.00                 | 2571             |
| 37833 7590 04/17/2007<br>LITMAN LAW OFFICES, LTD.<br>P.O. BOX 15035<br>CRYSTAL CITY STATION<br>ARLINGTON, VA 22215 |             |                      | EXAMINER<br>LEE, CLOUD K |                  |
|  |             |                      | ART UNIT<br>3753         | PAPER NUMBER     |
| SHORTENED STATUTORY PERIOD OF RESPONSE   | MAIL DATE   | DELIVERY MODE        |                          |                  |
| 3 MONTHS   | 04/17/2007  | PAPER                |                          |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/827,298             | GONZALES, PETER D.  |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Cloud K. Lee           | 3753                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/20/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 8-9, 12-17, 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rollins et al (US Patent No. 2,916,182).

Rollins et al disclose a device and its associated method comprising, a retention tank (5), a pipe extending from the retention tank (6), a pipe inlet device having a tubular body (see figure 1) having a hollow neck portion (11) wherein the tubular body is made from metal (see Col 2 lines 32-35), the neck portion having an open first end, a rounded rim (13) wherein the rim curving outward and rearward from the mouth and forming a skirt terminating in a lip (15), wherein the neck portion is cylindrical throughout its length (see figure 1), wherein the rim is rounded with a constant radius of curvature (see figure 1 and Col 2 lines 53-58), the mouth and the tubular body has a trumpet bell shape (see figure 2), and wherein the rim is rounded with a radius of a curvature gradually decreasing from the mouth to the lip (see Col 2 lines 59-68, Rollins et al states the section 13 is not limited to a "semi-circular" shape, but any preferred shape, such as a slightly elliptical), wherein the constant radius of curvature is about 1/8 of the outside diameter of the neck portion or about 1/4 of inside radius of the pipe (see Col 2 lines 53-58),

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al.

Regarding claim 4, the constant radius of curvature appears to be about  $\frac{1}{4}$  of the inside radius of the pipe. Under a more limiting interpretation (depending on the breadth of "about"), Rollins et al fails to disclose the radius of curvature of the rim is about  $\frac{1}{4}$  of radius of the pipe. In the event that the broadly recited "about  $\frac{1}{4}$ ..." is not met by Rollins et al. However, Rollins et al disclose the dimension of the rim is a results effective variable, i.e. a variable that achieves a recognized result. In this case, the flexibility of the rim and the lifetime of the device (see Col 2 lines 52-58) is a variable that achieved by selecting the dimension of the rim. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have chosen the dimension of the neck portion or the radius of curvature of the rim, since it has

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been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (see MPEP 2144.05).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al in view of Truax et al (US Patent No. 6,682,021).

Rollins et al fail to disclose an inner surface of the device includes boundary layer turbulators.

Truax et al disclose an inner surface of the device includes boundary layer turbulators (see figure 4A, element 14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an inner surface of the device includes boundary layer turbulators in order to improve fluid flow behavior as taught by Truax et al (see Col 6 lines 42-53).

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al in view of Clark (US Patent No. 1,608,547).

Rollins et al fail to disclose an inner surface of the device comprising a plurality of ribs and grooves extending into the fluid pathway.

Clark discloses an inner surface of the device comprising a plurality of ribs (8, 9, 10 and 11) and grooves (between the ribs 8, 9, 10 and 11 are grooves) extending into the fluid pathway. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an inner surface of the device comprising a plurality of ribs and grooves

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extending into the fluid pathway in order to create a rotation motion in the fluid and pull the solid in the fluid to reach the center of the pipe as taught by Clark (see lines 32-55).

7. Claims 10-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rollins et al in view of Thompson (US Patent No. 6,357,966).

Williams et al fail to disclose the tubular body is made from plastic or high density polyethylene.

Thompson discloses a pipe that is made from plastic and high density polyethylene (see Col 1 lines 6-14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body from plastic or high density polyethylene in order prevent corrosion as taught by Thompson (see Col 1 lines 6-14).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nichols (US Patent No. 1,392,204) and Wethered (US Patent No. 43,938) disclose a similar device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cloud K. Lee whose telephone number is (571)272-7206. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on (571)272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CL



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